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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
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Attachments	Motion to Ext Deadlines - Reply Brief 1-28-13.pdf (3 pages)(28893 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1043729
Date of Registration: July 13, 1976

CHRISTIAN M. ZIEBARTH
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC
Registrant.

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

**PETITIONER’S REPLY TO REGISTRANT’S RESPONSE TO PETITIONER’S
MOTION TO EXEND DEADLINES**

Petitioner CHRISTIAN M. ZIEBARTH (“Petitioner”) hereby files this Reply to Registrant DEL TACO, LLC’s (“Registrant”) Response to his motion to extend the deadlines currently set in this proceeding.

Petitioner files this brief for solely two purposes: first, Petitioner’s motion should in no way be construed as a vehicle to request a re-production of documents from Registrant, and second, by filing this reply, this motion is now fully briefed and ready for ruling by the Board.

Against Registrant’s assertions in its response brief, Petitioner is not attempting to use this instant motion as a vehicle to request a re-production of documents from Registrant. As indicated in Petitioner’s moving papers, an outstanding issue exists concerning Petitioner’s new

counsel's inability to view thousands of pages produced by Del Taco on a CD to Petitioner's first counsel of record back in 2011. This inability appears to be through no fault of Del Taco's nor its counsel; nevertheless, the issue exists. Petitioner only mentioned this outstanding issue in his moving papers as additional support for his argument that his counsel requires additional time beyond the deadlines currently set to properly prepare Petitioner's case.

Petitioner is currently making a good-faith effort to resolve this issue informally with Registrant by offering to pay the costs and expenses associated with re-burning a new CD. Petitioner is optimistic that the parties can reach a resolution without resorting to seeking relief from the Board. Should he be unsuccessful, however, Petitioner will utilize proper procedure and make a formal motion to compel a re-production, as well as request a suspension of the opening of the testimony periods until the issue is resolved.

Finally, upon filing of this reply brief, Petitioner's instant motion is now fully briefed and ready to be ruled on by the Board. Although Registrant's counsel initially declined Petitioner's request to file this motion for and extension of deadlines jointly, nevertheless Petitioner thanks Registrant for its professional courtesy of not opposing his motion.

Respectfully submitted,

By /Kelly K. Pfeiffer./
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **REPLY TO REGISTRANT'S RESPONSE TO PETITIONER'S MOTION TO EXEND DEADLINES** was served upon April L. Besl, DINSMORE & SHOHL, LLP, attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on January 28, 2013 and addressed as follows:

April L. Besl, Esq.
DINSMORE & SHOHL, LLP
255 East Fifth Street
Cincinnati, OH 45202

/Kelly K. Pfeiffer/
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